

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
McALLEN DIVISION

ALEJANDRO MARTIN PONCE,	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. M-7:12-224
	§	
ARI FLEET, LT and	§	
REGIS CORPORATION,	§	
Defendants.	§	

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**PLAINTIFF'S FIRST AMENDED ORIGINAL COMPLAINT**

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TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

*Comes Now* Alejandro Martin Ponce, hereinafter referred to as Plaintiff, complaining of and about ARI Fleet, LT and Regis Corporation, hereinafter referred to as Defendants, and for causes of action files this Plaintiff's First Amended Original Complaint. In support thereof, Plaintiff respectfully shows unto the Honorable U.S. District Court the following:

**A. Discovery Control Plan**

1. Plaintiff intends to conduct discovery under the Joint Discovery and Case Management Plan entered by the Honorable U.S. District Court in this matter, and pursuant to any other applicable provisions of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Southern District of Texas.

**B. Parties and Service**

2. Plaintiff Alejandro Martin Ponce is an individual residing in Hialeah, Miami-Dade County, Florida.

3. Defendant ARI Fleet, LT is a foreign (Delaware) statutory trust, and is a company doing business in the State of Texas. Defendant has appeared and answered in this lawsuit, and a true and correct copy of this instrument will be served upon Defendant pursuant to the Federal Rules of Civil Procedure.

4. Defendant Regis Corporation is a foreign (Minnesota) for-profit corporation, and is a company doing business in the State of Texas. Defendant may be served by serving its registered agent for service of process, National Registered Agents, Inc., 1021 Main Street, Suite 1150, Houston, Texas 77002 with a true and correct copy of this complaint under a summons duly issued and signed by the Clerk of the Court, and bearing the seal of the Court.

### **C. Jurisdiction**

5. The statements above and below are incorporated and/or adopted here by reference as if set forth verbatim.

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1332(a) upon the basis of complete diversity of citizenship between Plaintiff, a citizen of Florida, Defendant ARI Fleet, LT, a company duly organized under the laws of the State of Delaware, and Defendant Regis Corporation, a company duly organized under the laws of the State of Minnesota. The amount in controversy exceeds seventy five thousand dollars (\$75,000.00).

### **D. Facts**

7. On or about November 13, 2010, Plaintiff Alejandro Martin Ponce suffered injuries and other damages when the vehicle he was operating was rear-ended by a 2009

Ford Fusion operated by Anna Mendiola Castillo and owned by Defendant ARI Fleet, LT. At the time of the collision Anna Mendiola Castillo was an employee of Defendant Regis Corporation and operating a vehicle leased by Defendant Regis Corporation from Defendant ARI Fleet, LT. Sadly Ms. Castillo was killed as a result of the collision.

**E. Cause of Action**

8. The statements above and below are incorporated and adopted by reference as if set forth verbatim here.

**Count One - Negligence**

9. At the time of the collision, Anna Mendiola Castillo was operating her vehicle negligently. Anna Mendiola Castillo had a duty to exercise ordinary care and operate her vehicle reasonably and prudently. Anna Mendiola Castillo breached that duty in one or more of the following ways:

- a. Failing to control her speed;
- b. Failing to timely apply her brakes;
- c. Failing to yield the right of way;
- d. Failing to maintain a proper lookout;
- e. Driver inattention; and/or
- f. Using a cellular device while operating a motor vehicle.

Anna Mendiola Castillo's negligence was a proximate cause of Plaintiff's injuries and damages. At the time of the collision Anna Mendiola Castillo was an employee of Defendant Regis Corporation and operating a vehicle leased by Defendant Regis Corporation from Defendant ARI Fleet, LT.

**F. Vicarious Liability/Respondeat Superior**

10. The statements above and below are incorporated and adopted by reference as if set forth verbatim here.

11. At the time of the collision Anna Mendiola Castillo was an employee of Defendant Regis Corporation, and was acting in the course and scope of her employment with Defendant Regis Corporation. Plaintiff therefore invokes the doctrines of vicarious liability and/or *respondeat superior* against Defendant Regis Corporation, holding Defendant Regis Corporation responsible and liable for all of Anna Mendiola Castillo's negligent acts and omissions as stated herein.

**G. Damages**

12. Plaintiff seeks damages in an amount that is within the jurisdictional limits of this Court and in excess of seventy five thousand dollars (\$75,000.00).

**H. Conditions Precedent**

13. All conditions precedent have been performed or have otherwise occurred.

**I. Prayer**

14. *Wherefore, premises considered*, Plaintiff Alejandro Martin Ponce respectfully prays that upon trial of this civil action that he have judgment against Defendant ARI Fleet, LT and Defendant Regis Corporation for the following:

- a. Physical pain in the past and future;
- b. Mental anguish in the past and future;
- c. Physical impairment in the past and future;
- d. Medical expenses in the past and future;

- e. Physical disfigurement in the past and future;
- f. Lost wages in the past;
- g. Loss of earning capacity in the future;
- h. Costs of suit;
- i. Pre-judgment and post-judgment interest; and
- j. All other relief, at law or in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

THE GREEN LAW FIRM, P.C.  
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By:       / s / Brian M. Hull        
BRIAN M. HULL  
*Lead Attorney in Charge*  
USDC No. 982255  
State Bar No. 24047358

***ATTORNEYS FOR PLAINTIFF***

**CERTIFICATE OF SERVICE**

This is to certify that on this 14th day of August, 2012, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send email notification of such filing to the following attorney of record in this case pursuant to the Federal Rules of Civil Procedure:

James W. Upton  
Joseph P. Finegan  
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By:       / s / Brian M. Hull        
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